

REMARKS

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1-14, 16-29, 31-38, 41, and 42 are pending in the application, with Claims 1, 14, 22, 29, and 41 being independent.

Claims 15 and 30 are canceled herein without prejudice to or disclaimer of the subject matter recited therein. Further, Claims 39 and 40 were previously withdrawn while reserving the right to prosecute Claims 39 and 40 in subsequent continuation or divisional applications.

Claim 42 is newly added.

Claims 1-6, 8-14, 17-22, 24-29, 31-34, 36-38, and 41 are amended herein. Further amendments have been made throughout the claims to correct grammatical errors and other informalities found therein. Support for the claim amendments and additions can be found in the original disclosure. No new matter has been added. Favorable consideration is respectfully requested.

§ 112 SECOND PARAGRAPH REJECTIONS

Claims 1-38 and 41 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant respectfully traverses the rejection. However, in spite of Applicant's traversal, without acquiescing to the propriety of the rejection, and for the sole purpose of expediting allowance of the present application, Applicant submits the foregoing claim amendments. Furthermore, as stated above, Examiner Gee

tentatively agreed that Claims 1-38 and 41, as amended in the manner discussed during the interview, are definite. Consequently, Applicant respectfully submits that Claims 1-38 and 41 are definite and further requests that the rejection be reconsidered and withdrawn.

#### **§ 101 REJECTIONS**

Claims 1-38 and 41 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses the rejection and further requests that the rejection be reconsidered and withdrawn. However, in spite of Applicant's traversal, without acquiescing to the propriety of the rejection, and for the sole purpose of expediting allowance of the present application, Applicant hereby submits the foregoing amendments. Moreover, as stated above, Examiner Gee tentatively agreed that Claims 1-38 and 41, as amended in the manner discussed during the interview, recite statutory subject matter. Accordingly, Applicant respectfully requests that the rejection be reconsidered and withdrawn. Nevertheless, Applicant hereby submits its remarks with respect to Claims 1-38 and 41.

More particularly, with respect to Claims 1-13, the Action asserts that Claims 1-13 "are directed to a mere set of rules that are not necessarily used, and no useful, concrete, or tangible result is created" (Office Action, pages 4-5). Applicant respectfully disagrees. Independent Claim 1 recites a process for managing calls from a first managed code caller to a first method. Moreover, Claim 1 further recites that the process managing calls based on a hosting rule, wherein the hosting rule is selected from one of three recited

hosting rules. That is, the process manages a call based upon one of three hosting rules. Therefore, at least one of the three rules is actually used to manage the call. Accordingly, Applicant respectfully submits that Claim 1 is not merely directed to a set of rules “that are not necessarily used” and, therefore, recites statutory subject matter. Consequently, Applicant respectfully submits that Claims 2-13 also recite statutory subject matter by virtue of their dependency on independent Claim 1.

Moreover, Applicant respectfully submits the foregoing amendments to independent Claim 14 to remedy the informalities noted in the Action. In particular, Applicant amends Claim 14 to recite either providing access, or preventing access, to the protected resource to the managed caller when the call is either permissible or not permissible, respectively. Accordingly, Applicant respectfully submits that Claim 14 does not “merely intercept a call and derive whether a call is permissible or not” (Office Action, page 5). Instead, Claim 1 recites providing access to, or preventing access to, the protected resource “after the system makes a determination whether a call is permissible or not (Office Action, page 5). Thus, Applicant respectfully submits that independent Claim 14, and all claims which depend thereon, recite statutory subject matter.

For at least the above reasons with respect to Claim 1, independent Claim 22 also recites statutory subject matter. For instance, Claim 22 recites either authorizing or preventing a call based on a particular hosting rule. More particularly, if the first rule is selected (authorizing calls from any one of the plurality of managed code callers to the first method), the apparatus is affirmatively authorizing, instead of preventing or conditionally authorizing, the calls. Accordingly, Applicant respectfully submits that

independent Claim 22, including all claims which depend thereon, recites statutory subject matter.

With respect to Claims 29-38, the Action states that because no action is claimed following the intercepting and the deriving, the claims do not create a useful, concrete, or tangible result (Office Action, pages 5-6). However, Applicant amends independent Claim 29 to recite either to provide, or prevent, access to the one assembly to the corresponding protected resource when the call is permissible or not permissible, respectively. Accordingly, Applicant respectfully submits that independent Claim 29, and all claims which depend thereon, recite statutory subject matter.

Lastly, with respect to independent Claim 41, Applicant amends Claim 41 to recite:

logic, after determining whether the call is permissible, for either providing access to the particular one of the plurality of managed callers to the protected resource when the call is permissible or preventing access to the particular one of the plurality of managed callers to the protected resource when the call is not permissible.

Accordingly, for at least the foregoing reasons, Applicant respectfully submits that the host recited in Claim 41 recites the foregoing step in addition the steps of intercepting and deriving and, therefore, recites statutory subject matter.

Therefore, for at least the foregoing reasons, Applicant respectfully submits that Claims 1-38 and 41 recite statutory subject matter and further requests that the rejection be reconsidered and withdrawn.

#### **§ 102 REJECTIONS**

**Claims 1, 5, 6, 9, and 10** were rejected under 35 U.S.C. § 102(e) as being

anticipated by Applicant's Admitted Prior Art (U.S. Patent Publication No. 2005/0172286; hereinafter, "AAPA"). Applicant respectfully traverses the rejection and further requests that the rejection be reconsidered and withdrawn.

The Action asserts that various limitations recited in independent Claim 1 are taught by paragraph [0007] of the present application (Office Action, page 7). However, Applicant respectfully submits that the subject matter recited therein is not admitted by Applicant as prior art. For instance, paragraph [0007] states:

[0007] It would therefore be advantageous to provide a rule that prevents this code from synchronization to thereby avoid the consequence of decreased reliability and throughput. Another situation where a rule is desirable is in the prevention of a call from an assembly to a method that might destabilize the hosting environment. In this case, the calling assembly could be one that is provided by a developer entity that is likely to be noncompliant with sophisticated requirements of the managed environment. As such, the calling assembly might be managed code that, when executed, might render the managed code environment unreliable, or might destabilize a computing device running the hosting environment. Still another situation where a rule, or hosting rule, is desirable is to prevent an assembly from calling for access rights to a resource that is inappropriate for an application that is being hosted.

Although included in the "Background" section of the present application, Applicant respectfully submits that paragraph [0007] includes language indicating that the subject matter disclosed therein is part of Applicant's invention, is described in the "Detailed Description," and is an advancement over the prior art.

In particular, Applicant used language such as "[i]t would therefore be *advantageous* to provide a rule," "[a]nother situation where a rule is *desirable*," and "[s]till another situation where a rule, or hosting rule, is *desirable*" (emphasis provided) to emphasize that Applicant regarded the disclosure following the above terms as being part

of Applicant's invention. For example, stating that it would be advantageous to provide a particular rule demonstrates Applicant's intent that providing that particular rule is not taught by the prior art and is instead, an advancement over the prior art.

Further, paragraph [0008] of the present application is hereby submitted below:

[0008] A managed environment can typically be accommodated by different kinds of hosts, each of which may have different hosting requirements to minimize threats to robustness and reliability. It would be an advantage in the art to provide a way for a host to selectively disallow certain classes of resource access to hosted code, where the hosting requirements would not necessarily be based upon a security feature. While different kinds of hosts can have different types of hosting requirements, it would be problematic to provide a separate method to perform the same function for each different kind of host and/or for each different type of hosting requirement. Accordingly, it would be an advance in the art to provide techniques for a host to prevent a call to a certain method from a certain caller to perform a certain function that could destabilize the hosting environment, while allowing the call to the same method from a different and/or more highly trusted caller, where the techniques could use the same method for different types of call prevention and for different types of hosts.

Similar to that described in paragraph [0007], paragraph [0008] states that “[i]t would be an advantage in the art to provide a way for a host to selectively disallow certain classes of resource access to hosted code...” and “[a]ccordingly, it would be an advance in the art to provide techniques for a host to prevent a call to a certain method from a certain caller to perform a certain function that could destabilize the hosting environment, while allowing the call to the same method from a different and/or more highly trusted caller...”

Again, Applicant respectfully submits that the foregoing language (“it would be an advance in the art”) indicates Applicant's intent that the subject matter disclosed in paragraph [0008] is not prior art and, instead, is an advancement over the prior art.

Further, Applicant submits that portions of the subject matter disclosed in paragraph

[0008] can also be found in the “Detailed Description” and the claims, as amended.

Accordingly, Applicant respectfully submits that because Applicant regards portions of paragraphs [0007] and [0008] as describing advancements over the prior art, and that the subject matter recited therein is also found in the “Detailed Description” of the present application, AAPA is not prior art with respect to the present claims.

Furthermore, Applicant respectfully refers the Examiner to MPEP § 2129. MPEP § 2129 states that:

A statement by an applicant in the specification or made during prosecuting identifying the work of another as “prior art” is an admission which can be relied upon for both anticipation and obviousness determinations, regardless of whether the admitted prior would otherwise qualify as prior art under the statutory categories of 35 U.S.C. 102.

That is, Applicant submits that descriptions of subject matter invented by the Applicant does not constitute admitted prior art. Applicant respectfully submits that the Applicant has not identified the “work of another” as prior art under MPEP § 2129. Rather, in at least paragraphs [0007] and [0008], Applicant has described advancements over the prior art that are also described in the “Detailed Description” of the present application. Accordingly, for at least the foregoing reasons, because Applicant submits that AAPA is not prior art with respect to the present application, AAPA also fails to anticipate independent Claim 1.

Dependent Claims 5, 6, 9, 10, and 42 depend from independent Claim 1. Each dependent claim is patentable by virtue of their dependency, as well as for the additional features that each claim recites. Applicant also respectfully requests individual consideration of each dependent claim.

Therefore, for at least the foregoing reasons, it is respectfully submitted that Claims 1, 5, 6, 9, 10, and 42 are not anticipated by AAPA, and therefore, the present rejection under 35 U.S.C. § 102(e) should be reconsidered and withdrawn.

**§ 103 REJECTIONS**

**Claims 2, 3, 7, 8, 11-17, 19-24, 26-32, 34-38, and 41** were rejected under **35 U.S.C. § 103(a)** as being obvious over AAPA in view of Muhlestein *et al.* (U.S. Patent Publication No. 2002/0004815; hereinafter, “Muhlestein”). Applicant respectfully traverses the rejection and further requests that the rejection be reconsidered and withdrawn.

Dependent Claims 2, 3, 7, 8, 11-13, and 42 depend from independent Claim 1, which is patentable over AAPA for at least the reasons set forth above with regard to Claim 1. Moreover, Muhlestein neither remedies the deficiencies in AAPA noted above with respect to independent Claim 1, nor does the rejection make any arguments to that effect. Accordingly, Claim 1 is patentable over AAPA and Muhlestein, both singularly and in combination with one another. Consequently, due to their dependency on independent Claim 1, dependent Claims 2, 3, 7, 8, 11-13, and 42 are also patentable over AAPA and Muhlestein, both singularly and in combination with one another.

Further, the Action asserts that independent Claim 14 is rejected using the same basis of arguments used to reject claims 1, 2, 5, and 6 (Office Action, page 10). However, as stated above with respect to independent Claim 1, Applicant respectfully submits that paragraph [0007] of the present application, which was cited in support of the rejection of Claim 14, is not prior art. Accordingly, independent Claim 14 is patentable over AAPA.

Moreover, Muhlestein neither remedies the deficiencies in AAPA noted above with respect to independent Claim 14, nor does the rejection make any arguments to that effect. Accordingly, Claim 14 is patentable over AAPA and Muhlestein, both singularly and in combination with one another.

Additionally, the Action asserts that independent Claim 22 is rejected using the same basis of arguments used to reject claims 1 and 14 (Office Action, page 10). However, as stated above with respect to independent Claim 1, Applicant respectfully submits that paragraph [0007] of the present application, which was cited in support of the rejection of Claim 22, is not prior art. Accordingly, independent Claim 22 is patentable over AAPA.

Moreover, Muhlestein neither remedies the deficiencies in AAPA noted above with respect to independent Claim 22, nor does the rejection make any arguments to that effect. Accordingly, Claim 22 is patentable over AAPA and Muhlestein, both singularly and in combination with one another.

Further, the Action asserts that independent Claim 29 is rejected using the same basis of arguments used to reject claims 1, 14, and 22 (Office Action, page 11). However, as stated above with respect to independent Claim 1, Applicant respectfully submits that paragraph [0007] of the present application, which was cited in support of the rejection of Claim 29, is not prior art. Accordingly, independent Claim 29 is patentable over AAPA.

Moreover, Muhlestein neither remedies the deficiencies in AAPA noted above with respect to independent Claim 29, nor does the rejection make any arguments to that effect. Accordingly, Claim 29 is patentable over AAPA and Muhlestein, both singularly

and in combination with one another.

In addition, the Action asserts that independent Claim 41 is rejected using the same basis of arguments used to reject claims 1, 14, 22, and 29 (Office Action, page 12). However, as stated above with respect to independent Claim 41, Applicant respectfully submits that paragraph [0007] of the present application, which was cited in support of the rejection of Claim 41, is not prior art. Accordingly, independent Claim 41 is patentable over AAPA.

Moreover, Muhlestein neither remedies the deficiencies in AAPA noted above with respect to independent Claim 41, nor does the rejection make any arguments to that effect. Accordingly, Claim 41 is patentable over AAPA and Muhlestein, both singularly and in combination with one another.

Further, as AAPA is not prior art under 35 U.S.C. § 103(a) with respect to independent Claims 1, 14, 22, 29, and 41, one of ordinary skill in the art could not have combined AAPA with Muhlestein.

**Claims 4, 18, 25, and 33 were rejected under 35 U.S.C. § 103(a) as being obvious over AAPA in view of Muhlestein, in further view of Muhlestein *et al.* (U.S. Patent Publication No. 2002/0108102; hereinafter, “Muhl ‘102”).** Applicant respectfully traverses the rejection and further requests that the rejection be reconsidered and withdrawn.

Dependent Claims 4, 18, 25, and 33 depend from independent Claims 1, 14, 22, and 29, respectively, which are patentable over AAPA and Muhlestein for at least the

reasons set forth above with regard to Claims 1, 14, 22, and 29. Moreover, Muhl '102 neither remedies the deficiencies in AAPA and Muhlestein noted above with respect to independent Claims 1, 14, 22, and 29, nor does the rejection make any arguments to that effect. Accordingly, Claims 1, 14, 22, and 29 are patentable over AAPA, Muhlestein, and Muhl '102, both singularly and in combination with one another. Consequently, due to their dependency on independent Claims 1, 14, 22, and 29, dependent Claims 4, 18, 25, and 33 are also patentable over AAPA, Muhlestein, and Muhl '102, both singularly and in combination with one another.

Further, as AAPA is not prior art under 35 U.S.C. § 103(a) with respect to independent Claims 1, 14, 22, and 29, one of ordinary skill in the art could not have combined AAPA with either Muhlestein or Muhl '102.

Thus, AAPA, Muhlestein, and Muhl '102, whether taken alone or in combination (assuming for the sake of argument that they can be combined), fail to disclose or suggest the recitations of independent Claims 1, 14, 22, 29, and 41. Accordingly, Applicant respectfully submits that independent Claims 1, 14, 22, 29, and 41 are patentable over the proposed combination of references. Furthermore, dependent Claims 2-4, 7, 8, 11-13, 16-21, 23-28, 31-38, and 42 are patentable by virtue of their dependency on independent Claims 1, 14, 22, 29, and 41, as well as for the additional features that each claim recites. Applicant also respectfully requests individual consideration of each dependent claim.

Therefore, for at least the foregoing reasons, it is respectfully submitted that Claims 2-4, 7, 8, 11-14, 16-24, 26-29, 31-38, 41, and 42 are not obvious over the various

combinations of AAPA, Muhlestein, and Muhl '102, and therefore, the present rejections under 35 U.S.C. § 103(a) should be reconsidered and withdrawn.

CONCLUSION

For at least the foregoing reasons, it is respectfully submitted that Claims 1-14, 16-29, 31-38, 41, and 42 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections and an early notice of allowance.

The arguments and amendments presented herein were necessitated by the most recent Office Action and the telephone interview between Applicant's representative and Examiner Gee dated January 29, 2009. If any issue remains unresolved that would prevent allowance of this case, Applicant requests that the Examiner contact the undersigned attorney to resolve the issue.

Respectfully Submitted,

Lee & Hayes, PLLC

Dated: 2/9/2009

By: 

David S. Lee  
Reg. No. 38222  
Brett J. Schlameus  
Reg. No. 60827  
206-876-6022